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State of Wisconsin
Department of Workforce Development

Rule Analysis for Legislative Review

Proposed Rules Relating to Wages Exempt from Unemployment Insurance Levy
Chapter DWD 136
CR 08-059

Basis and Purpose of the Proposed Rules: In 2003 Wis. Act 197, the Legislature amended Wis. Stat. §108.225(16) to provide that certain wages are exempt from Department levy to recover benefit overpayments. The law required the Department to prescribe by rule a methodology for application of the exemption at the time the levy is issued. Wis. Stat. §108.225(16)(am)2. The proposed rule establishes the methodology for calculating the statutory exemptions for determining the wages exempt from levy for collecting benefit overpayments and penalties imposed upon an individual for fraud by an employing unit. The proposed rule was approved by the Unemployment Insurance Advisory Council on June 5, 2008.

Public Hearing Summary: A public hearing was held on July 22, 2008; there were no comments.

Response to Legislative Council Staff Recommendations: The Department accepted the comment to include in the definition of “federal minimum wage” and “federal poverty guidelines” a clarification that these are the amounts in effect at the time the exemption is calculated. The Department does not agree that “but not limited to” should be excluded from the definition of “gross earnings” but rather should be kept to ensure the proper interpretation that gross wages may include more than the items listed. The Department accepted the comment to review the definition of “household” to determine that it appropriately reflects the intended scope to include only those persons who are economically co-dependent by sharing income and expenses, and amended this definition. An initial applicability provision is unnecessary because the substantive requirements have been in effect by statute since 2003 Wis. Act 197.

No Changes Have Been Made to the Analysis Prepared under s. 227.14 (2), Stats.

Final Regulatory Flexibility Analysis: The proposed rule affects small businesses but does not have a significant economic impact on a substantial number of small businesses as defined in s. 227.114 (1), Stats.

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